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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 8th day of June, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition No. 13645 of 1987

M/s. Hindustan Aeronautics Ltd.,
(Bangalore Complex),
Services Division,
Bangalore-560 017,
represented by its Chief
Administrative Manager,
(Legal & Estate)

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..Petitioner

(By Sri T.R. Subbanna, Advocate)

-Vs-

1. Taxation Appeals Committee,
Corporation of City of Bangalore,
Corporation Offices,
Bangalore-560 002, by its
Chairman;
2. The Commissioner,
Bangalore City Corporation,
Bangalore-2;
3. The Revenue Officer (North),
Corporation of City of Bangalore,
Corporation Offices, Bangalore-2;
4. The Asst. Revenue Officer,
Gandhinagar Range,
Office of the Commissioner,
Corporation of the City of
Bangalore-2

..Respondents

(By Sri B.V.Muralidhar, Advocate)

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Writ Petition is filed praying to direct the R-2 to 4 to forbear from demanding and collecting layout charges or any other charges in respect of 2A 37 guntas of land.

This writ petition is coming on for hearing this day, the court made the following:

O R D E R

The petitioner is a government company. It is owned the premises bearing No 37, 2nd Main Road, Srirampuram, Bangalore and premises No 38, Railway Parallel Road, Srirampuram, Bangalore. The fourth respondent issued a notice dt 9-2-1997 [Annexure 'E'] calling upon the petitioner to pay a sum of Rs 93,456.20 as layout charges in regard to an extent of 2 acres 37 guntas in the said properties. This was in the course of correspondence between the parties relating to the assessment of the property and registration of khata. The petitioner sought certain clarifications by its letter dated 1-4-1987. The fourth respondent provided the same by his reply dated 13-4-1987 [Annexure 'E1'], reiterating the demand for payment. Feeling aggrieved, the petitioner has filed an appeal before the Taxation Appeal Committee under Rule 18 of Schedule III to Karnataka Municipal Corporations Act, challenging the said demand. Unfortunately, the appeal was not placed before the Taxation Appeal Committee at all. The third respondent chose upon himself to consider the appeal and issued an endorsement dated 7-7-1987 [Annexure 'G']

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stating that in regard to the request of petitioner for exemption under Section 110(J) of the Act and demand for layout charges, an appeal will not lie ^{to} ~~with~~ the Taxation Appeal Committee and therefore the demand for payment should be complied with. Feeling aggrieved, the petitioner has filed this petition and sought quashing of Annexure 'E', 'E1' and 'G'. The petitioner has also sought a direction to respondents 2 to 4 not to demand or collect layout charges in regard to the properties in question. In the alternative, it has sought a direction to the respondents to place the appeal before the Taxation Appeal Committee.

2. It is not necessary to examine the matter on merits. When the appeal is filed, it is for the Appellate Authority to consider the same. The third respondent obviously could not have examined the appeal filed before the Taxation Appeal Committee and held that the appeal was not maintainable. The third respondent seriously erred in not placing the appeal before the Taxation Appeal Committee and in proceeding with the matter himself. Hence, on this limited ground, this petition is allowed, Annexure 'G' is quashed and

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the third respondent is directed to place the appeal before the first respondent for decision in accordance with law. The contentions of both the parties including the contention that an appeal ^{may} not be available to the petitioner, are left open. Till such a decision, the corporation shall not enforce the recovery of amount claimed in Annexure 'E' and 'E1'.

Sd/-
JUDGE



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